

Remarks

The present Amendment is submitted in response to the Office Action dated May 1, 2008, which set a three-month period for response.

Claims 1-10 were pending before amendment. Claims 1, 4 and 6-10 are amended hereby, and claims 2, 3 and 5 are cancelled without prejudice or disclaimer. The subject matter of cancelled claims 2, 3 and 5, and the subject matter of claim 8 is now incorporated into amended claim 1. New independent claim 11 incorporates the subject matter of claim 1 (before amendment) cancelled claims 2, 3 and 5, and that of pending claim 9. Hence, claims 1, 4 and 6-11 are pending hereinafter, where claims 1 and 11 are the independent claims.

Claims 1-10 are rejected under 35 USC §103(a) as obvious over German reference DE 3922552 A1 ("DE '552) in view of US Patent No. 4,328,879 (the '879 patent). Claims 1-10 are rejected under 35 USC §112, second paragraph, as indefinite by use of the phrase "in particular" in claim 1. In response, applicants have amended claim 1 to remove the phrase, and respectfully request withdrawal of the rejection of claims 1-10 (i.e., claims 1, 4, 6-10) under the second paragraph of section 112.

Turning now to the substantive rejection of the claims, applicants respectfully submit that neither DE '552, nor the '879 patent anticipate or in combination render obvious any of pending claims 1, 4 and 6-10, and new independent claim 11.

Applicants' invention as claimed overcomes the shortcomings of the prior

art, such as the shortcomings of the prior art cited in the outstanding office action, and is advantageous because the damping elements, preferably of rubber or rubberlike material with a high damping factor, are incorporated between the driving gear wheel and the driven shaft and act in the circumferential direction or tangential direction, and tolerances, and in particular pitch errors, profile deviation and errors of concentricity, existing in the paired gear wheels, can not only be compensated for, markedly lessening the gear noise and vibration caused by the gear mechanism, but the very high startup forces acting on the gearing, which occur when the drive motor that turns the drive shaft upon being switched on because of the inertia of the drive and of the driven masses, and the load peaks that occur in operation at the gearing, can all be reduced. Overall, this leads to highly smooth running in the case of sintered gear wheels, and regardless of the type of gear wheels (sintered or cut), because of the reduced mechanical load, the result is a long service life of the gear mechanism.

Applicants' independent claim 1 as amended calls out a hand power tool having a gear mechanism with a driving gear wheel (12), seated in a manner fixed against relative rotation on a drive shaft (11), and a driven gear wheel (13), meshing with the driving gear wheel and driving a driven shaft, and spring-elastic damping elements (22), which are located between the driven gear wheel (13) and the driven shaft (14), said driven gear wheel (13) is seated rotatably on the driven shaft (14) and has pockets (21), offset from one another in the circumferential direction, that are defined by radial side walls (211); and said

damping elements (22) rest in the pockets (21) with contact against the radial side walls (211) and are retained on a slaving device (16) that is joined to the driven shaft (14) in a manner fixed against relative rotation and is fixed axially nondisplaceably on the driven shaft (14) and the slaving device (16) has a ring (17), seated on the driven shaft (14), and a number of radial ribs (18) corresponding to the number of pockets (21) in the driven gear wheel (13), of which ribs one protrudes into each pocket (21); and that two or more damping elements (22), resting on each side of the radial rib (18), are provided in each pocket (21), of which damping elements each one is braced on the radial rib (18) and on a radial side wall (211) of the pocket (21), and said radial side walls (211) of the pockets (21) and/or said radial ribs (18) of the slaving device (16), at least in their region protruding into the pockets (21), include indentations in the region of contact with the damping elements (22).

New claim 11, instead of calling out that the radial ribs (18) include “indentations” in the region of contact with the damping elements (22), as does claim 1, calls out that the radial ribs include concavities or convexities. Claim 8 now depends from claim 11, and further qualifies that the radial ribs further include indentations.

DE ‘552 and the ‘879 patent, whether taken alone or in combination, fail to disclose these features and elements of independent claim 1, as amended. Because claim 1 recites these features and elements that are not disclosed by DE ‘552, or the ‘879 patent, the combined prior art references do not render

claim 1 obvious under 35 USC §103(a). Claims 4, 6, 7, 9 and 10 depend from claim 1 (as amended), and are patentable therewith for at least these reasons. New claim 11, and claim 8 that depends from claim 11, recite features and elements that are not disclosed by DE '552, or the '879 patent, and hence the combined prior art references do not render claim 11 obvious under 35 USC §103(a), nor claim 8 that depends from claim 11.

Claim 1, claims 4 and 6, 7, 9 and 10 that depend from claim 1, claim 11, and claim 8 that depends from claim 11, are non-obvious by DE '552 in combination with the '879 patent, and applicants respectfully request withdrawal of the rejection of claims 1, 4 and 6-10 under 35 USC §103 over DE '552 in view of the '879 patent, and the allowance of all of pending claims 1, 4 and 6-11, thereover.

Accordingly, the application as amended is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

Michael J. Striker
Attorney for Applicant(s)
Reg. No. 27,233
103 East Neck Road
Huntington, New York 11743
631 549 4700